BILL NO. S-95-02-12 (as amended)

SPECIAL ORDINANCE NO. S-20-95

AN ORDINANCE approving The General Rules and Regulations of the Fort Wayne Department of Stormwater Management.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the attached General Rules and Regulations of the Fort Wayne Department of Stormwater Management are hereby ratified, affirmed and approved in all respects.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Sam Talarico
Council Member

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay
J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Talarico, seconded by ~~_____~~, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) ~~and Public Hearing to be~~ held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____ M., E.S.T.

DATED: 2-28-95.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Talarico, seconded by ~~_____~~, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	5	1		3
BRADBURY				✓
EDMONDS				✓
GiaQUINTA	✓			
HENRY	✓			
LONG	✓			
LUNSEY				✓
RAVINE	✓			
SCHMIDT	✓			
TALARICO		✓		

DATED: 3-14-95.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ ~~(GENERAL)~~ (SPECIAL) ~~(ZONING)~~ ORDINANCE ~~RESOLUTION~~ NO. G-20-95 on the 14th day of March, 1995.

ATTEST:

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)

Don J. Schmidt
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of March, 1995, at the hour of 10:45 o'clock A.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 17th day of March, 1995, at the hour of 10:30 o'clock A.M., E.S.T.

PAUL HELMKE, MAYOR

BILL NO. S-95-02-12

REPORT OF THE COMMITTEE ON
CITY UTILITIES
SAMUEL J. TALARICO - JANET G. BRADBURY - CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) approving The General Rules and Regulations of the Fort Wayne Department of Stormwater Management

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (~~RESOLUTION~~)

DO PASS	DO NOT PASS	ABSTAIN	NO REC
	Sam Talarico		
	Charles Edmonds (SR)		

DATED: 3-14-95.

Sandra E. Kennedy
City Clerk

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FORT WAYNE WATER DEPARTMENT OF STORMWATER MANAGEMENT

FORT WAYNE, INDIANA

GENERAL RULES AND REGULATIONS

MARCH 1995

In accordance with Chapter 8-1.5-5 of the Indiana Code and Chapter 53 of the Fort Wayne Code of Ordinances, 1992, (Code) the Board of Directors of the Department of Stormwater Management has established the following General Rules and Regulations to provide for the implementation of the provisions of said Chapter 53 of the Code, the safe and efficient capture and conveyance of stormwater runoff through the management and operation of the City's Stormwater Utility and construction and maintenance of the City's stormwater system and the regulation, assessment, collection, and crediting of rates and charges for stormwater service.

These Rules and Regulations are intended to supplement Chapter 53 of The Fort Wayne Code of Ordinances and should be read consistent with the Code.

I. DEFINITIONS

For the purposes of these Rules and Regulations, words and terms shall have their ordinary and usual meanings.

Words and terms used herein shall have meanings as defined in either the Fort Wayne Code of Ordinances, 1992 (the Code); specifically Chapter 53, or as appropriate to the context used.

"Shall" means mandatory; "may" means permissible.

ABATEMENT - Any action taken to remedy, correct, or eliminate a condition within, associated with, or impacting a stormwater drainage system.

APPROVED PLANS - Plans approved by the Department of Stormwater Management according to a permit and plan review which will govern all improvements made within the City which require stormwater facilities or changes or alterations to existing stormwater facilities.

BEST MANAGEMENT PRACTICES (BMPs) - Structural and/or non-structural controls that temporarily store or treat stormwater runoff to reduce flooding and provide other amenities.

BOARD - Board of Directors of the Department of Stormwater Management established under Section 53.01 of the City of Fort Wayne Code of Ordinances.

CODE - Fort Wayne Code of Ordinances.

COMBINED SEWER - Pipe or conduit primarily designed to convey sanitary sewage and secondarily intended to convey stormwater.

COUNTY-REGULATED DRAIN - Part of stormwater conveyance system under the jurisdiction of the Allen County Drainage Board, including certain ditches, tiles, and sewers.

DECONSOLIDATION - the process of dividing a property's impervious area and ERU measurement by some formula (agreed upon and provided by the property owner and tenants) for the purpose of billing stormwater service fees to tenants based on their proportionate share of the total ERUs and stormwater fee originally charged to the actual property owner.

DESIGN STORM - A rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate of a BMP.

DETENTION - The temporary storage of storm runoff in a basin, pond, or other BMP to control the peak discharge rates by holding the stormwater for a lengthened period of time and which provides gravity settling of pollutants.

DEVELOPED - The condition of real property altered from its natural state by the addition to or construction on such property of impervious surfaces or physical improvements such that the hydrology of the property or a portion thereof is affected.

DIRECT DISCHARGE - Stormwater runoff from a contiguous property that enters an exempt drain, such as a river, without entering the Utility-controlled drainage system.

DIRECTOR - The Director of the Division of Utilities, City of Fort Wayne, Indiana.

DRAIN - relative to stormwater drainage, any sewer, tile, ditch, stream or other stormwater runoff conveyance channel or conduit.

DSM - Fort Wayne Department of Stormwater Management.

EQUIVALENT RESIDENTIAL UNIT (ERU) - A unit value, equal to the average amount of impervious area of a single family residential property within the City of Fort Wayne, and established at 2500 square feet of (measured) impervious area. It is also the base billing unit for calculating the proper assessment of stormwater charges to all users of the Fort Wayne Stormwater System.

EXEMPT DRAIN - a primary line of stormwater conveyance whose principal jurisdiction and maintenance fall to the Indiana Department of Natural Resources, U.S. Army Corps of Engineers and/or the Allen County Drainage Board rather than the City of Fort Wayne.

GRAVEL AND STONE - groundcover consisting of gravel and/or stone shall be deemed impervious or pervious based on the usage of the area.

a) Gravel and stone areas commonly used for parking or as travelled ways shall be considered impervious. These areas will be billed a stormwater service charge based on the square footage of the area.

b) Gravel and stone areas used for equipment or other storage, erosion control, weed control, or landscaping shall be considered pervious. Rainfall normally will pass through these areas and into the ground, thus not creating a runoff problem. These areas will not billed a stormwater service charge, and will be treated the same as undeveloped property.

IMPERVIOUS AREA - Areas that have been paved and/or covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop and blacktop, such that the infiltration of water into the soil is prevented. Excluded from this definition are undisturbed land, lawns and fields.

INFILTRATION - A complex process of allowing runoff to penetrate the ground surface and flow through the upper soil surface.

MONTH - the period between any two consecutive regular billings by the Utility for service rendered to a customer. Billings are scheduled at intervals of approximately thirty (30) days. For purposes of billing, a month is 25-35 days. Any bills produced outside the month parameter will be pro-rated.

NON-RESIDENTIAL PROPERTY - All properties not encompassed by the definition of Residential shall be defined as non-residential and will include:

- Agricultural property;
- Apartment and Condominium property;
- Mobile Home Parks;
- Commercial property;
- Industrial property;
- Institutional property;
- Governmental property;
- Churches;
- Schools;
- Federal, State, and Local property; and
- any other property not mentioned in this or the list of residential properties below.

NPDES - National Pollutant Discharge Elimination System. Regulations for stormwater discharges as described in The Federal Register, 40 CFR Parts 122, 123 and 124.

NPDES PERMIT - Stormwater management permit required of medium and large cities and certain industries by the EPA pursuant to Section 402 of the Clean Water Act.

PEAK DISCHARGE - The maximum rate of flow of water passing a given point during or after a rainfall event. Sometimes called peak flow.

PRIVATE STORMWATER FACILITIES - Various stormwater and drainage works not under the control or ownership of the City, County, State, and/or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

PROPERTY OWNER - that individual, partnership or corporation holding the deed or record title to the property. For the purposes of these Rules and Regulations, a contract purchaser is not considered the owner.

PUBLIC STORMWATER FACILITIES - Various stormwater and drainage works under the control and/or ownership of the City, County, State, or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.

RESIDENTIAL PROPERTY - A lot or parcel of real estate on which a building or mobile home is situated which building contains a group of rooms forming a single inhabitable dwelling unit with facilities which are used or are intended to be used primarily for living, sleeping, cooking and eating. This definition also includes a lot containing one individual

building containing four (4) or fewer separate or contiguous single-family dwelling units. Each and every residential property shall be assigned one (1) ERU.

RETENTION - The holding of stormwater runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration or emergency bypass.

RETROFIT - To install a new BMP or improve an existing BMP.

SEWER - May refer to storm, sanitary or combined water conduction facility.

SEWERAGE - sewage and/or groundwater, stormwater and surface runoff; also, a system of sewers.

SEWERAGE (OR SEWAGE) SYSTEM - in accordance with Indiana Code, storm and sanitary sewers; main, submain, local, lateral, interceptor, and outfall sewers; force mains and pumping stations; sewage treatment facilities; and any other structures necessary or useful for the collection, treatment, and disposal of liquid or solid waste, sewage, storm drainage, and other drainage of a municipality.

SQUARE FOOTAGE OF IMPERVIOUS AREA - For the purpose of assigning an appropriate number of ERUs to a parcel of real property, the square footage of all impervious area using the outside boundary dimensions of the impervious area to include the total enclosed planimetric square footage, without regard to topographic features of the enclosed surface.

STORM SEWER - A sewer designed or intended to convey only stormwater, surface runoff, street wash waters, and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry stormwater only, which begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a channel, natural watercourse or combined sewer.

STORMWATER SERVICE CHARGE - A charge imposed on users of the City's stormwater collection, impounding and transportation system.

STORMWATER SERVICE/CUSTOMER USER - The owner of a lot or parcel of residential or non-residential property shall be considered the City Utilities Customer for the purpose of assessing stormwater service charges, unless otherwise determined by agreement between the owner and third party such as a lease or contract to purchase, whereby third party accepts responsibility for payment of City utilities.

STORMWATER SYSTEM - All constructed facilities, including combined sewers, structures and natural watercourses under the ownership, and/or control of the City used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, ponds, lakes, culverts, retention or detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the Allen County Drainage Board.

VACANT/UNDEVELOPED - The condition of real property unaltered by the construction or addition to such property of any impervious surfaces or physical improvements that change the hydrology of the property from its natural state.

II. SERVICE CHARGES AND BILLING PRACTICES

A. GENERAL

1. a. Charges for stormwater service shall be computed and billed by the General Office of the City Utilities. Bills shall be rendered monthly, unless additional or prorated billing is required to reflect customer changes, initial billings, or is otherwise required to adjust billing cycles.

   b. Charges for miscellaneous services or work performed on behalf of a stormwater customer by the Stormwater Utility shall be assessed at the time the work is completed and shall be included in the customer's next utility bill. Installment payments must be arranged through the City Utilities' Customer Service Department

2. Billings for stormwater service shall be rendered with and shall be due and payable on the same due date as billings for water and sewerage service to the same premises, (approximately fifteen (15) days after the bill is rendered) if any, and if none, then within such billing cycle as the Utility may determine. All bills for stormwater service not paid by the due date shall be considered delinquent.

3. Charges for stormwater service shall be billed to the stormwater customer, unless by contract with the Utility, another person assumes responsibility for payment.

4. Stormwater service charges shall take priority over all other charges for City Utility services. Partial

payments shall be applied firstly to satisfy the Garbage User Fee Fund under Chapter 50 of the Code, if any, and secondly, the Stormwater Fund established under Section 53.10 of the Code.

5. Service, and thus billings shall commence as follows:

a.) Stormwater billing for a new property shall commence with the billing for sewer and/or water service, the meter set date or date of occupancy whichever shall first occur.

b.) Additional stormwater charges for an established service address necessitated by a change in the amount of impervious area at the property shall commence on the date the new certificate of occupancy or compliance is issued.

6. a.) (i.) Billing adjustments pursuant to section 53.08 of the Code required to correct for impervious area measurements shall be applied retroactively to the date of the customer's initial inquiry to the Stormwater Customer Service Center (excluding those termed Client Resolved) seeking informal resolution of a complaint or a particular stormwater service account or charge, or the filing of the Petition to Appeal if informal action is not taken.

(ii.) Billing adjustments required to implement credits or discounts under Section 53.09 of the Code, when no issues concerning ERU assignment exit, shall be applied retroactively to the date of the customer's application.

(iii.) In cases where either the actions set out in subsections (i.) or (ii.) above are taken by July 31, 1995, the credit, discount or ERU adjustment will be applied retroactively to that customer's initial billing of service charges under this Ordinance.

(iv.) Where both ERU and credit/discount issues exist, the ERU determination must be resolved first, and all billing adjustments shall be retroactive to the applicable date under subsection (i.) or (iii.) above.

b.) Adjustments shall be made by crediting the customer's utility account (both metered usage and the stormwater service charge) until any overpayment has been fully repaid. If the adjustment is greater than the total of that

customer's previous two month's billings for all services, City Utilities will issue a refund check for the adjustment amount upon written request to the Customer Service Department.

7. Deconsolidation of stormwater accounts will be available on a limited basis in the following situations:

   a. 1. Inaccurate property ownership interpretation by the City which causes properties to be consolidated which should receive individual stormwater bills.

      2. Upon request and agreement by all owners and tenants, where multiple owners and tenants were properly consolidated under one account by the City because the data and information available did not clearly allocate buildings or parking areas to individual owners.

   b. Requests for deconsolidation shall be made on the appropriate City Utilities Deconsolidation Application Form available from the Stormwater Customer Service Center.

   c. One request per property, per year shall be processed at no cost to the customer. Additional requests for deconsolidation changes or amendments within a twelve (12) month period shall require a processing fee of $25.00. Name changes and amendments which do not affect the total impervious area calculation shall be performed at no charge.

   d. Requests for deconsolidation shall not be considered until any issues concerning discounts and/or water quality credits for the particular property have been finally determined.

8. All billing errors, including incorrect rate applications, will be adjusted to the known date of the error or for a period of six (6) years, whichever period is shorter.

9. Two or more final and active accounts in the name of or guaranteed by a party may be consolidated at the sole discretion of City Utilities when one or more of the accounts has been finalled and the amount owing on said account is delinquent.

B. OWNER'S RIGHTS AND RESPONSIBILITIES

1. Notwithstanding billings to, and assumption of responsibility by any other person, charges for stormwater service shall remain the ultimate responsibility of the customer billed, who shall hold the Utility harmless from any loss occasioned by the delinquency of the person billed, including all penalties, recording fees, attorney's fees, interest and court costs, if any.

2. The owner of the real estate shall, upon request to the Customer Service Department, have the right to examine the Utility's records of billing and collection for the owner's property to ascertain whether such charges have been timely paid, and the amount thereof.

3. Nothing herein contained shall permit the owner, or any person other than the customer being billed, to inspect, examine or otherwise obtain confidential information including the income, employment, finances or social security number of the customer.

4. For properties with inactive utility accounts where no water or sewer charges have been generated for 60 days or more, the stormwater service charge shall revert to the owner. For billing purposes, a stormwater-only account number will be issued to such property, payable by the owner of said property, until water or sewer charges have been reinstated.

5. Stormwater service charges attach to the property unless the customer is other than the property owner; however, if an owner sells or otherwise transfers premises billed for stormwater service, that owner will be held responsible for the payment of all bills rendered for stormwater service until written notice of the transfer has been given to the Customer Service Department of the Utility, and the account may properly be transferred to another customer.

III. ENGINEERING AND CONSTRUCTION PRACTICES

A. GENERAL

1. Easements intended for periodic or occasional use as conductors for the flow of surface water runoff shall be maintained in an unobstructed condition by the owners of the properties they cross. When specified, as by restrictive covenant, the Utility shall have the right to determine if any obstruction exists and to repair and maintain, or require such repair and maintenance by the

property owner, as shall be reasonably necessary to keep the conductors unobstructed.

2. It shall be a violation of these Rules and Regulations to connect or outlet, either directly or indirectly, any discharge line or sewer carrying anything other than stormwater, surface runoff (including normal street and yard wash), or groundwater to a stormwater sewer, ditch or conveyance structure.

3. It shall be a violation of these Rules and Regulations to dump or dispose of junk, rubbish, trash, garbage, yard waste, household waste, industrial waste, or debris in a stormwater sewer, ditch, or conveyance structure. The City shall also enforce, as a violation of these Rules and Regulations, Section 13-1-3-8 of the Indiana Code.

4. All site development and redevelopment shall include adequate and proper stormwater drainage and erosion control provisions. Reasonable consideration and provisions shall be made for drainage to and from neighboring properties in accordance with the City of Fort Wayne Subdivision Control Ordinance.

B. <u>PRIVATE STORMWATER FACILITIES OUTLETTING TO PUBLIC DRAINAGE SYSTEM</u>:

1. The City of Fort Wayne shall have no responsibility for the installation, maintenance and repair of private stormwater facilities or private drain systems.

2. No newly-constructed drain shall cross the property of another private owner unless such private owner has granted an easement for such private drain which is duly recorded in the office of the Allen County Recorder.

3. All costs and expenses incident to the installation and connection of the private drain or private drainage system shall be borne by the owner. The owner shall indemnify the City for any loss or damage directly or indirectly occasioned by the construction or installation of the private drain, including backwater damages from the public drainage system.

4. The connection or outlet of a private drain into the public drainage system shall conform to the City of Fort Wayne Specifications and Standards for Sanitary Sewers and Storm Drainage Works. Any deviation of the prescribed procedure or material must be approved by the Department of Stormwater Management before installation.

5. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the New Water and Sewer Permit Office, located in the City-County Building, One Main Street.

6. All excavations for construction or installation of drainage facilities shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in accordance with the City of Fort Wayne Specifications and Standards for Sanitary Sewers and Storm Drainage Works.

7. All private construction and installation of stormwater drainage works shall include proper restoration and provisions for erosio and sediment control in accordance with the City of Fort Wayne Specifications and Standards for Sanitary Sewers and Storm Drainage Works and the City of Fort Wayne Subdivision Control Ordinance.

8. No property owner shall change the stormwater runoff pattern of his property in such a way that neighboring properties or City property is adversely affected. Consideration and provisions must be made for drainage to and from neighboring properties when land use or development is altered.

9. No owner, manager, developer, or occupant of any real property shall tap, drain, or outlet, either directly or indirectly, into any public sewer until a sewer tap permit has been obtained from the City and until owner has satisfied the obligation to pay all assessment, reimbursements and pro rata shares of sewer extension costs laid against that property for public sewers which serve it. A sewer tap permit given in error shall not operate to nullify any such obligation that has been duly recorded nor estop the City from charging and collecting such costs at any subsequent time.

10. Notwithstanding the foregoing, the Utility may, in accordance with policies and procedures adopted by the Board of Stormwater Management, from time to time, permit an owner, developer, manager, or occupant to tap, drain, or outlet into a public sewer and to defer, in whole or in part, payment of the obligation, upon the execution and delivery to the Utility of a note, mortgage, lien document or other evidence of obligation acceptable to the Utility. All such deferred obligations shall be considered fees assessed against real property.

11. Installments of deferred obligations, including any finance charges or interest chargeable thereon, shall be deemed to be charges for stormwater service for the purposes of Chapter 53 of the Code, and these Rules and Regulations, and shall be billed under Section 2(A)(1)(b) herein.

12. Sewer tap permits shall be obtained from the City's New Water and Sewer Permit Office and shall be issued only to licensed sewer tap contractors, who shall pay to the Stormwater Utility a fee for each sewer tap permit. Not later than 48 hours after making each sewer tap and building of the sewer installation, the tap contractor or property owner shall notify the New Water and Sewer Permit Office of such connection so that an inspection may be made by the Utility prior to backfilling the said sewer installation.

13. In cases of requests for connections to newly constructed mains, prior to acceptance by the Board of Stormwater Management, a Prime Contractor's Release must be executed and granted through the Stormwater Engineering Department and submitted to the New Water and Sewer Permit Office. Upon satisfaction of all other requirements, a permit for connection may be issued.

14. No person shall make use of a sewer tap or backfill or otherwise conceal a sewer installation unless and until the same has been inspected and approved by the Utility. In addition to all other remedies, the Utility may cause installation of the sewer tap to be excavated and exposed, may terminate the connection, and may require the owner, developer, manager, or occupant to pay or reimburse the Utility for its costs and expenses in such excavation, exposure, termination, reconnection and restoration. Such costs and expenses shall be considered as charges for stormwater treatment services and may be collected in accordance with the provisions of these Rules and Regulations of and Chapter 53 of the Code.

C. LICENSED SEWER TAP CONTRACTORS

1. In order to maintain strict control and quality of the sewerage system, all contractors who connect, install, repair, and/or replace a storm sewer tap shall be required to have a valid sewer license or registration to do work with the City. Examinations shall be required for new applicants and those whose licenses have expired for more than one year.

2. The examination will require the knowledge of installation, workmanship, materials, safety and health regulations, liability, City Standards and Specifications, Chapters 51 and 53 of the Code, and any other necessary information to determine the experience and knowledge of the contractor to install a private drain. A minimum score of seventy percent (70%) shall be required in order to pass the examination. There shall be a one week time interval before the applicant can repeat the examination.

3. After successfully passing the examination, the Contractor may purchase a license for the current calendar year, renewable annually on the first day of each succeeding year, to install sewer taps into the public sewer system.

4. An annual fee of $50.00 shall be paid to the New Water and Sewer Permit Office by each licensed sewer tap contractor.

5. The contractor shall post a Performance Bond and Certificate of Liability Insurance with the City of Fort Wayne.

6. The contractor must have public liability insurance, having at least $50,000 per person, $100,000 per accident, and $10,000 property damage. A performance bond of at least $5,000 is required of the contractor. A certificate of the liability insurance coverage and the performance bond must be on file with the New Water and Sewer Permit Office, located in the City-County Building, One Main Street.

D. EXTENSION OF CITY'S STORM SEWERS

1. If adequate public drainage outfalls do not exist, the developer shall extend or cause to be extended adequate outfall drains. Plans for any such outfall drain extension must be approved by the City's Stormwater Engineering Department. All extensions must be designed in accordance with the current drainage design criteria, City and County, and must be constructed in accordance with the City's Standards and Specifications.

2. Review of the plans and inspection prior to and during construction by the Stormwater Engineering Department shall be at the expense of the developer. The charge to the developer for review and approval of the stormwater drainage and erosion control plans and inspection during installation shall be based on the actual hours expended

on such review and inspection, multiplied by the prevailing hourly rates for such work.

3. No person shall make use of a sewer extension or backfill or otherwise conceal a sewer installation unless and until the same has been inspected and approved by the Utility. In addition to all other remedies, the Utility may cause the said installation to be excavated and exposed, may terminate the connection, and may require the developer or contractor to pay or reimburse the Utility for its costs and expenses in such excavation, exposure, termination, reconnection, and restoration.

IV. CREDITS AND DISCOUNTS

Customers seeking the discount or credits must file an application on the appropriate forms provided by City Utilities. Credit Applications must be accompanied by the appropriate application fee. The fee shall be $25.00 for residential users and $100.00 for all others.

A. DISCOUNT FOR CERTAIN PROPERTY TAX EXEMPT PROPERTIES

Pursuant to Section 53.09 of the Code, land and buildings used for various purposes when exempt from property taxation under I.C. 6-1.1-10-1, 6-1.1-10-2, 6-1.1-10-4, 6-1.1-10-5, and 6-1.1-10-16, shall be entitled to a 15% discount off of the gross ERUs assigned for any such land or building under Section 53.06, where the statutory exemption has been granted and can be confirmed through the records of the Allen County Auditor's Office, upon proper application for said discount.

B. DIRECT DISCHARGE CREDIT

1. Properties, or portions thereof, directly discharging stormwater to the following waterways shall be entitled to a proportionate credit against assigned stormwater ERUs: St. Mary's River, St. Joseph River, Maumee River, all legal public drains within the corporate boundaries of the City under the control of the Allen County Drainage Board, and that section of Spy Run Creek which is currently scheduled to be included in the U.S. Army Corp of Engineers' diking project, (for purposes of this section, that portion of Spy Run Creek running through and downstream of Vesey park.)

2. It is the intent of the City to take over jurisdiction and control of all legal public drains within the corporate boundaries of the City, which drains are currently regulated by the Allen County Drainage Board. Credits granted under this section regarding each such

drain shall expire upon the effective date of the relevant transfer from the County to the City.

C. QUANTITY REDUCTION CREDIT

1. Where the peak stormwater runoff rate from a property is restricted and controlled through onsite BMPs (such as detention facilities) which are privately designed, constructed, and maintained according to Utility standards and requirements, a Quantity Reduction Credit (QRC) shall be granted to the owner(s) proportionate share of the amount of that property directly served.

2. Full QRC shall be limited to a maximum of 82% of the total assigned ERUs. QRC will be calculated in accordance with the following:

Minimum Storage Volume	RELEASE RATE	
	Singular Peak Release[1]	Graduated Peak Release[2]
50-yr. Storm	Quarter Credit	Half Credit
100-yr. Storm	Half Credit	Full Credit

[1]Singular Peak Release: release rate less than or equal to the 5-year undeveloped site peak discharge during the maximum design storm event, without further significant discharge restriction for smaller, more frequent storm events.

[2]Graduated Peak Release: release rate less than or equal to the 2-year undeveloped site peak discharge during a 10-year storm, graduating to less than or equal to the 5-year undeveloped site peak discharge rate during the maximum design storm event.

The credit for detaining runoff is:

Detention QRC = T% x (A_{det}/A_t), where

T = percent credit from table
A_{det} = onsite area draining through detention

A_t = total area of property

3. QRC may be available for other types of BMP on a case-by-case basis after review and recommendation by the DSM staff and approval of the Director.

D. UNIQUE AND SPECIAL CASES

For unique and special cases where a property owner or customer can unequivocally document and demonstrate that his property's stormwater runoff impact on the Utility's stormwater drainage system is significantly less than suggested by its assigned ERUs, the Director, upon recommendation of his staff, has the authority to make adjustments consistent with the intent of the ordinance establishing charges for stormwater services and with this policy.

E. ADMINISTRATIVE/QUALITY CAP

Stormwater service charges are made up of water quantity, water quality and administrative components. Credits are only available to reduce the water quantity component at this time.

Users are entitled to a credit (or credit plus discount) up to a maximum of 82% of the gross stormwater ERUs assigned for a certain property (water quantity component). The fee for the remaining 18% represents administrative costs, the expense of maintaining water quality and meeting all permit requirements imposed on the Utility, all of which benefit the entire Fort Wayne community. However, at the present time, a cap of $350.00 per month shall be placed on the cost of these service items (administrative and quality components).

Thus, a user qualifying for the full 82% water quantity credit shall be entitled to have the $350.00 cap applied, thereby limiting the user's bill to a maximum of $350.00 per month. This cap shall only be applied to accounts receiving the full 82% credit.

This dollar figure and percentage are subject to change based on future requirements and costs placed on the City regarding water quality and standards.

F. INSPECTIONS AND ADJUSTMENTS

1. PERIODIC INSPECTION AND CREDIT ADJUSTMENTS

The Department of Stormwater Management reserves the right to inspect periodically all storm drainage control facilities to ascertain whether they are operating properly. If such a system, due to improper maintenance or any other reason, fails to detain stormwater runoff in an effective manner, the Director shall issue an order to complete the repairs of the facility within 60 days. If such repairs are not completed in a timely manner, the Director, at his sole discretion, may issue an Order eliminating or reducing detention credits to an

appropriate level. Any such facility shall not be eligible to reapply for Stormwater Quantity Reduction Credit adjustments for a period of 12 months following any credit reduction or elimination ordered by the Director.

2. LAND USE CHANGE

The issuance of any building permit or other action which changes or intensifies the existing land development of a non-residential property shall be cause for an adjustment of the Stormwater Service Charges and/or credits accordingly. The property owner or customer shall have the obligation of informing the DSM of any such changes.

V. APPEALS

A. INTRODUCTION

The appeal process described herein will be used for appeals by customers of the fee they are being charged, not to contest the rate structure or the existence of the fee itself. Any challenge to the fee or the rate structure should be undertaken with City Council or through the court system. Customers may only appeal on the basis of their belief that City staff applied the fee determination methodology incorrectly to their individual property.

The appeal process is reserved for the resolution of disputes by customers over the application of the fee after informal attempts to negotiate a fee acceptable to both the City and the customer have failed. The appeal process begins after the customer has provided to the Stormwater Utility, and the stormwater staff has reviewed and ruled upon, all requested supporting information such as; site plant, property ownership documentation and land use information, and the customer is still not satisfied with the decision of the Stormwater Department Manager.

B. BASES FOR APPEAL

There are several reasons why a customer would file an appeal. The Following are some of these reasons; however, this list is not intended to be all inclusive:

1. A difference or disagreement in interpretation of what is to be considered impervious ground cover. Definitions of what is impervious area were established in advance of measurement of customer properties. A customer may feel that these definitions were incorrectly applied and resulted in an incorrect fee being charged.

2. An unresolved dispute over the land use category applied to a particular parcel or property. Businesses operated out of a residence are potential sources of appeals of this type.

3. A dispute over the amount of water quantity credit given to a customer for installing controls which reduce the cost to the City to operate the Stormwater Management Program, or for the property's location on certain waterways. Disputes may arise over the extent to which a particular stormwater control reduces the City's cost.

4. Disallowance of the discount for certain property-tax-exempt entities may also be appealed.

C. PROCESS

1. INITIATING AN APPEAL

An appeal may be initiated by filing a completed Petition to Appeal Form with the Stormwater Department Manager once informal attempts to resolve customer's complaint have failed. Appeals must be filed on this form provided by the Stormwater Customer Service Center.

1. The name, address and telephone number of the interested party filing the appeal, and the name of the owner and customer if the appeal is being filed by an interested party other than the customer or the owner.

2. The property address, utility account number(s) associated with the fee being appealed, and a facility contact person if different from the customer name.

3. The decision which is being appealed and the date of that decision.

4. An indication of the appellant's status as an interested party.

5. A statement giving specific reasons why the appellant believes the decision of the Stormwater Department manager is incorrect or does not comply with the Department of Stormwater Rules and Regulations or Chapter 53 of the Fort Wayne Code of Ordinances.

6. New or different documents, drawings, plans or other material Appellant believes supports the case.

2. REVIEW FOR ADMINISTRATIVE COMPLETENESS, DECISION OF STORMWATER DEPARTMENT MANAGER

The appeal form will be reviewed for administrative completeness. The Stormwater Department Manager will review and investigate completed forms or will return incomplete forms to the appellant. The Stormwater Department Manager will have 60 days to perform this review, and, shall render a written determination that either the original ERU determination and assessed rate should be affirmed or the user's rate should be adjusted. This opinion shall be forwarded to the user by certified mail, return receipt requested.

3. REVIEW AND DECISION BY THE DIRECTOR OF UTILITIES

If a Petition is denied, the appellant shall then have seven (7) days from date of receipt to request a reconsideration by the Director. Any additional facts concerning the dispute shall be reduced to writing and submitted, along with a copy of the original Petition and supporting documents, to the Director. The DSM shall submit a written report of the determination in the case, along with any documents used in denying the claim. Once the appeal form has been forwarded to the Director for review, the Director or his designee may conduct such studies and request such information as the Director feels is necessary to make a decision. The Director may schedule an informal hearing with the appellant, and any others who have established in writing that they are interested parties, to discuss and attempt to resolve the issues raised by the appeal. The Director's decision will be issued in writing to the appellant and any other established interested parties. The written opinion of the Director or his designee shall constitute the final DSM determination, and may be challenged by the user by a written request to the Board for formal consideration within fifteen (15) days of the Director's opinion.

4. BOARD OF DIRECTORS HEARING AND FINAL DETERMINATION

Any party aggrieved by a final order or determination of the Director under Code Section 53.08 or 53.09 (c)(2) may, within fifteen (15) days after receipt of a Notice informing such party of the decision or order, appeal such decision or order to the Board of Directors of Stormwater Management of the City of Fort Wayne by filing a written request seeking such Board action with the Clerk of the Board stating the basis of such appeal, including the alleged error in the decision or order. After receipt of such request the Board, after due and proper notice to all parties, shall hold a hearing on said petition and at the conclusion thereof or within thirty (30) days

thereafter, enter a decision either affirming, denying, revising, amending, altering, or modifying such decision or order as the Board, by majority vote, shall so rule. The hearing shall be electronically recorded and a transcript of the hearing provided upon request at a cost per page as determined by the City Utilities Accounting Department and amended from time to time. A party or person aggrieved by the Board shall have the right to judicial review of such determination in accord with and pursuant to the same provisions of Title 4 of the Indiana Code as are applicable to appeals and review of decisions of agencies of the State of Indiana.

D. APPEALS UNDER PRIOR LAW

The right to appeal a rate classification under the interim stormwater rate schedule pursuant to Amended Ordinances G-25-91 and G-32-93 shall expire on June 30, 1995.

VI. DELINQUENCIES AND COLLECTION REMEDIES

A. Failure to receive a bill shall not affect the right of the Utility to turn off and discontinue water service for non-payment or to seek any other remedies available to it by law or in equity.

B. Disputing the accuracy of a bill shall not be a valid reason for non-payment of a bill by the customer. Nor shall the filing of an application for a discount or credits stay the customer's obligation to pay stormwater charges when due. The customer may pay a bill under protest, thus giving written notice that redress is being sought. Such written notices must be filed with the Supervisor of the Customer Relations Department of the Utility prior to the due date of the bill.

C. Delinquent stormwater service bills shall be subject to a collection or late charge of ten (10%) percent on the outstanding balance.

D. Where the property having a delinquent account for charges for stormwater service is served by the City's Water Utility, the Utility may, after reasonable notice to the person being billed, shut off water service to the property. Water service shall not be restored until the delinquent account, together with the costs of turning off and turning on the water, shall have been paid.

E. Moving from one location to another in no way absolves the customer from responsibility for any unpaid charges incurred at a previous location. A customer's current water service

may be discontinued for failure to pay any unpaid stormwater charges previously billed and outstanding, regardless of the premises with respect to which the charges were incurred, when the previous charges are transferred to the customer's new account, and the delinquency requires such action.

F. NONSUFFICIENT FUNDS (NSF) - CHECKS
Checks returned for NSF purposes will be subject to reimbursement of the fee the banking institution charges City Utilities and an administrative charge per account affected, for a total of $22.00.

G. Charges for stormwater service levied pursuant to Chapter 53 of the Code, shall be due and payable on or before the due date stated on the bill. Any charge for service not paid by the due date shall be delinquent, and may be collected, with any applied penalty, recording fees, collection or deferred payment charges, attorney's fees, interest and court costs, if any, in accordance with the Code.

H. In addition to the foregoing remedies, the Utility may foreclose liens established under Section 53.11 of the Code.

VII. ENFORCEMENT AND PROCEDURE

A. In accordance with Section 53.12 of the Code, the power to enforce the provisions of Chapter 53 of the Fort Wayne Municipal Code not specifically dealt with elsewhere shall be vested in the Director of the Division of City Utilities (Director) and such designees as s/he, with the approval of the Board of Directors of Stormwater Management may appoint for such purposes.

B. Whenever the Director or any such designee shall deem it appropriate to charge any person with a violation(s) of Chapter 53, he may issue to such person a Notice of Violation and/or Summons, which shall be processed according to the provisions of Indiana Code (34-4-32-1), or may employ administrative remedies in accordance with Indiana Code 36-1-6-9 and the City Code.

C. Contractually specified enforcement procedures which conflict with any portion of this Section shall take precedence over the conflicting portion of said Section.

D. All actions taken by the City requiring a response by the user shall be made in writing and sent by certified mail, return receipt requested

VIII. REMEDIES NOT EXCLUSIVE

The remedies provided to the Utility by these Rules and Regulations shall not be exclusive and shall be in addition to all other remedies which the Utility has in law or equity.

IX. SEVERABILITY PROVISION

The invalidity of any section, sentence, clause, paragraph, part of provision of these Rules and Regulations shall not affect the validity of any other section, sentence, clause, paragraph, part of provision of these Rules and Regulations which can be given meaning without such invalid part or parts.

X. AMENDMENTS AND REVISIONS

The Board of Directors of Stormwater Management of the City of Fort Wayne, Indiana, reserves the right, by appropriate action, to amend, modify, delete, change or otherwise revise these Rules and Regulations as it may deem, from time to time, to be desirable and/or necessary.

XI. EFFECTIVE DATE

These Rules and Regulations shall become effective upon passage of an appropriate ordinance by the Common Council of the City of Fort Wayne and any and all necessary approval by the Mayor of the City of Fort Wayne.

APPROVED by the Board of Public Works in their regular meeting, _____, 1995.

_____

Linda Buskirk, Chairman, Board of Directors of Department of Stormwater Management

_____

C. James Owen, Member, Board of Directors of Department of Stormwater Management

_____

Terrance P. McCaffrey, Board of Directors of Department of Stormwater Management

ATTEST:_____
Patricia Crick, Clerk

The City of Fort Wayne

Paul Helmke, Mayor

MEMORANDUM

LAW DEPARTMENT

TO: MEMBERS OF COMMON COUNCIL

FROM: LINDA PETERSON POWELL, STAFF ATTORNEY

DATE: February 27, 1995

SUBJECT: STORMWATER RULES AND REGULATIONS S-95-02-12 (as amended)

The attached Ordinance is required by Section 53.01(b)(1) of the new stormwater Ordinance passed on January 10, 1995. The new stormwater rate takes effect March 26, 1995. The Administration hopes to have Rules and Regulations in effect by that date, also.

The purpose of this memo is to give you a brief overview of these Rules and Regulations, drawing attention to the most important provisions. Staff will be available on the date of discussion to answer any specific questions.

The first section, on Definitions, includes terms directly related to stormwater, and also some interrelated terms taken from the City's Sewer Use Rules and Regulations.

Item II, Service Charges and Billing Practices, mirrors the City's provisions for its Water and Sewer Utility. Disconnection of water service is done only when an account is at least 60 days delinquent and the delinquency is $20 or more. Thus, disconnection for failure to pay only the residential stormwater fee portion of a utility bill is not a very effective enforcement tool. This section also provides for deconsolidation of a stormwater account where a master account in the name of the owner has been established but, by agreement of the owner and all tenants, City Utilities separates it so each tenant pays its proportionate share of the total bill.

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Item II, Section B. sets out the rights and responsibilities of property owners. Stormwater service, unlike sewer and water service, runs with the property. The fee is based on the characteristics of the property, and all benefits accrue to the property. Therefore, stormwater ordinances, whether based on impervious surface such as ours or other factors, place primary responsibility for service charges on the property owner. It is imperative that City Utilities has the power to enforce this Ordinance through liens against the real estate. City Utilities will honor agreements between owners and third parties, whereby third parties agree to pay stormwater charges accruing for a certain property. The City also grants the property owner the right to review stormwater billing records in order to be sure a tenant is timely paying the stormwater service charges.

The provisions on Engineering and Construction Practices set out under Section III are similar or identical to regulations covering the Sewer Utility. Section III B(8), found on page 11 is an addition intended to help with a problem often found in neighborhoods. Individuals will fill in swails behind their homes, or in other ways change the grade of their land so that water does not settle on their property. This water then runs onto an adjacent property causing a drainage problem for that owner. In the past, the City has had no ability to assist the adjacent owner. Although this remains a civil matter between the two (2) property owners when City property is not affected, it is hoped this rule will provide the adjacent owner with additional authority when protecting his right to enjoy his property.

Rule IV covers credits and discounts. The language in Section A. on the discount for tax-exempt properties was taken directly from the Ordinance. The direct discharge credit enumerates those waterways which are not under the control of the City of Fort Wayne. Properties draining into one of these waterways shall be entitled to credits based on the percentage of the property's runoff going to the waterway. Paragraph number 2. of that section points out direct discharge credits assigned in connection with drains under the jurisdiction of the Allen County Drainage Board shall expire if and when that drain is acquired by the City of Fort Wayne.

The quantity reduction credit on pages 15 and 16 explains how a property with a detention/retention facility or other means of reducing the peak stormwater runoff from that property may obtain a credit against the stormwater service charges assessed. Paragraph number 3. of that section, and the following section D. on Unique and Special Cases are intended to provide the Utility with some latitude to grant credits on an individual basis. For example, cemeteries and golf courses, two categories of property which often consist of a large number of acres with quite a bit of

impervious surface throughout in the form of narrow roadways, might qualify for a stormwater credit under one of these sections. In these instances, stormwater runoff from the property will be absorbed into the surrounding acreage before it can get to the City's stormwater system, and thus should receive some credit.

The next section, under Credits and Discounts, is a provision establishing a cap to be applied to the stormwater fee of the City's largest customers, when the customer has qualified for the full water quantity credit. Application of this cap does not mean that no user shall pay greater than $350.00 per month. To qualify, the user must have taken all actions available to reduce the impact of stormwater run-off from the property and received the entire water quantity credit.

The last section regarding credits addresses adjustments and inspections and is self-explanatory. Although the City will periodically inspect properties receiving credits, the property owner shall be held responsible for reporting land use changes.

Rule V addresses appeals. The process applied to stormwater appeals under the new Ordinance is substantially similar to that followed under the previous Ordinance, and the procedures applied when a customer challenges actions of City Utilities concerning water and sewer accounts. A customer is entitled to contest any action taken by City Utilities or its Director through internal processes, a hearing before the Board of Public Works and finally, court action.

Rule VI covering Delinquencies and Collection Remedies follows the rules and regulations of the Water and Sewer Utilities and both the new and previous Stormwater Ordinance. Likewise, enforcement provisions under Rule VII are standard City Utility provisions, as are the remaining rules following.

If you have specific questions regarding any of these Rules and Regulations I would encourage you to call the Stormwater Customer Service Center at 427-1440 and ask for Kevin Holle or Al Damico. They have been dealing with questions arising under the new Ordinance and can walk you or your constituents through most any situation.